

## CHAPTER 3.

## LAND VACANCIES.

## H. B. No. 9.]

An Act amending Section 6 and Section 8 of House Bill No. 358, being Chapter 271 of the Acts of the Forty-second Legislature, Regular Session, Page 452, (1931); defining "Commissioner"; defining "Good Faith Claimant" or "Claimant"; defining "Vacancy"; defining "Applicant"; describing and providing for procedure, terms, and conditions upon which vacancies may be applied for, sold, and leased; providing for preference rights to purchase or lease by claimant and providing for preference rights or alternative royalty rights to applicants for vacancies; prescribing procedure to be followed by Commissioner in instances where vacancies are filed upon; providing for findings by the Commissioner; invalidating pending applications to purchase or lease vacancies under prior laws unless same are already granted, or are involved in pending litigation or unless certain steps are taken by applicants; providing for suits and venue thereof in cases where persons, firms, or corporations are aggrieved by any action of Commissioner; providing which lands are subject to lease under Section 8; providing that nothing in this Act shall be construed as abridging, modifying or removing the rights of the surface owner of land sold or to be sold by the State with a mineral reservation to act as the agent of the State in making leases, but said rights remain as now provided by law; providing for purchase of and payment for excess land and deed of acquittance by State; creating a School Land Board; defining its powers and prescribing its duties; providing regulations for the sale and lease of all lands set apart for the permanent free school fund and several asylum funds, except those lands awarded to the State of Texas by decree of the Supreme Court of the United States on March 17, 1930, in Cause entitled: The State of Oklahoma vs. The State of Texas, The United States of America, Intervenors, the mineral estate in river beds and channels, and the mineral estate in all areas within tidewater limits, including islands, lakes, bays, and the bed of the sea; dedicating the mineral estate in river beds and channels, and in all areas within tidewater limits, including islands, lakes, bays, and the bed of the sea, to the permanent free school fund; abolishing the Board of Mineral Development, transferring to and vesting the functions in the School Land Board; providing for the transfer of officers and employees, the balances of appropriations, and all books, papers, records, property and pending business of the Board of Mineral Development to the School Land Board; making an appropriation; providing that this Act shall not affect rights that have accrued under prior laws, nor rights involved in pending litigation; declaring that all laws in conflict herewith are repealed; providing if any part of this Act is held unconstitutional the balance hereof shall be upheld; providing for the filing of copies of leases in General Land Office; fixing the effective date of the Act; and declaring an emergency.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. That Section 6 of House Bill No. 358, being Chapter 271 of the Acts of the Forty-second Legislature, Regular Session, Page 452 (1931) be, and the same is, hereby amended so that hereafter the same shall read as follows:

"(a) Definitions.

"Wherever the reference is made in this Act to 'Commissioner,' the same shall mean the Commissioner of the General Land Office.

"Wherever the term 'Good Faith Claimant' or 'Claimant' is used in this Act, the same shall mean any person, firm, or corporation, occupying or using, or theretofore occupying or using, or whose predecessors in interest, have occupied or used a vacancy for purposes other than exploring for or removing oil, gas, sulphur, or other minerals therefrom with a good faith belief that the same was included within the boundaries of a survey or surveys previously titled, awarded or sold under circumstances that would, at the time the vacancy issue arose, have vested title thereto had said area actually been located within said survey or surveys, and whose said boundaries are shown to have been recognized boundaries in the community. Provided a person, firm, or corporation, or those under whom he claims, shall have said land in his inclosure or under definite recognized boundaries and be in possession thereof for a period of ten (10) years with a good faith belief that he was the owner thereof and that same was included within his survey, except that whenever the owner of the tract of land adjoining the alleged vacant area makes application to buy the same, and no prior application to purchase or lease such alleged vacant area is on file, then such owner of said adjoining tract of land, who otherwise qualifies as a good faith claimant, shall be considered a good faith claimant without regard to the length of time he may have owned said adjoining land, or had such alleged vacant tract inclosed, or under definite recognized boundaries and in possession with the belief that the vacant area was included within his survey.

" 'Vacancy,' when used in this Act, means an area of unsurveyed school land not in conflict on the ground with lands previously titled, awarded, or sold, which has not been listed on the records of the Land Office as school lands and which on the date of the filing was neither subject to an earlier subsisting application to purchase or lease by a discoverer or claimant nor involved in pending litigation brought by the State to recover the same.

" 'Applicant,' when used in this Act, means any person, other than a good faith claimant, who discovers and files application to purchase or lease a vacancy.

"(b) The vacant and unsurveyed land included within this Act shall be subject to sale or lease under the terms of this Act. Any of such land shall be subject to sale to a good faith claimant whether the same shall be within five (5) miles of a well producing oil, gas, or other minerals in commercial quantities, or not; but such lands lying within five (5) miles of a well producing oil or gas in commercial quantities shall not be subject to sale to any other person than a good faith claimant, but

where there is no good faith claimant, or such claimant fails to exercise his preferential right, lands within such five-mile distance shall be subject to lease only, and all of such leases shall reserve to the State at least a one-eighth free royalty on oil, gas, sulphur, and other minerals. In all cases where the good faith claimant purchases the land within five (5) miles of a well producing oil, gas, or other minerals in commercial quantities, there shall be reserved to the State a free royalty of one-eighth of all oil, gas, sulphur, and other minerals. On all other vacancies sold there shall be a free royalty of one-sixteenth reserved to the State on all oil and gas production and one-eighth on sulphur and other minerals. Such royalty reserved by the State shall be one-eighth on oil and gas and one-sixth on sulphur and other minerals if a good faith claimant fails to exercise his preference right to purchase within ninety (90) days after the Commissioner determines the existence of the vacancy as hereinafter provided. Such sales shall provide that the purchaser shall have the right to execute oil, gas, and mineral leases on the land without the joinder or approval of the Commissioner, and all bonus money and rentals therefor shall be paid to and be the property of the purchaser, but any and all of such mineral leases shall provide for and reserve to the State the above-mentioned free royalty on all oil, gas, sulphur, and other minerals. On all vacancies leased by the State, there shall be reserved not less than a one-eighth free royalty on oil, gas, sulphur, and other minerals.

“(c) Any applicant who claims that a vacancy exists and desires to lease or purchase same shall file in duplicate with the County Surveyor of the county in which any part of the land is situated a written application to purchase or lease, describing the land claimed to be a vacancy, and stating that he desires to purchase or lease same under the provisions of this Act. The application shall also state the names and addresses of all owners or claimants of land or any interest therein and of leases of any character thereon, adjoining, overlapping, or including the land claimed to be vacant, so far as the same may be ascertained from the records of the General Land Office, and of the office of the County Clerk of the county in which the land is located and from the tax rolls of such county. The application shall also state the names and addresses of all persons who, from facts known to the applicant, assert any right to said alleged vacant land, and same shall be sworn to and shall state the applicant knows of no other claimants than those listed.

“Contemporaneously with the filing of the application, the applicant shall pay to said surveyor a filing fee of Five Dollars (\$5). The surveyor shall mark on the original and duplicate the exact hour and date of filing, shall return one application to the applicant and shall record the other in a book to be kept by him for that purpose. The application which is returned to the applicant shall, within ten (10) days after the date of filing

with the surveyor of the county, be filed with the Commissioner who shall note thereon the date of filing. Applicant shall also pay a filing fee of One Hundred Dollars (\$100) to the Commissioner. Failure to file the application with the Commissioner within the time fixed, and to pay the filing fee, shall be a waiver of all rights under the application. As between applicants, priority shall date from the time of filing with the surveyor. In counties which have no County Surveyor, such preliminary filing shall be with the County Clerk and shall be recorded in a book to be kept for that purpose, but not in the deed records.

"The Commissioner shall notify the applicant by letter of the estimate of the cost of proceedings under the application, and, within thirty (30) days after the date of such letter, the applicant shall make a deposit with the Commissioner to cover costs of all work which may be necessary in order to comply with the request contained in such application. Upon failure to make the deposit as required, all rights under the application shall be lost. In the event such deposit shall prove to be insufficient, the applicant shall be requested by letter to make a further deposit of a sum to be fixed by the Commissioner and, if such additional deposit be not made within thirty (30) days after the date of such letter, the work shall be discontinued and the application cancelled, and such cancellation shall be so endorsed on the application. Upon cancellation, the right to purchase or lease under such application shall be lost. The deposits provided for in this Section shall be a special trust fund to be used only for the purpose authorized by this Act. Provided that the applicant shall have the right of appeal from the estimate of cost so made by the Commissioner, to the District Court of Travis County by giving notice to the Commissioner in writing thereof within fifteen (15) days after the receipt of said estimate from said Commissioner as herein provided. And provided that said applicant shall have fifteen (15) days after the decision of said District Court as to amount in which to make payment thereof.

"Upon filing of any such application with the Commissioner and upon the making of the required deposit as provided for herein, the Commissioner shall forthwith cause a notice of intention to survey to be mailed to all persons named in the application as interested persons, and at the addresses given therein, and to the Attorney General of Texas. The notices shall be deposited in the Post Office at Austin, Texas, at least ten (10) days prior to the date fixed for the beginning of such survey.

"The Commissioner shall appoint a surveyor to make a survey in accordance with the notice. Such surveyor shall be a surveyor licensed by the State, or the County Surveyor of the County in which the land or a part thereof is situated. The fees and expenses to be paid for such work shall be such as may be fixed by law, or, if not so fixed, then such as the Commissioner and the surveyor may agree upon, but not in excess of such as may be reasonable for the work performed, all of which shall be paid by applicant.

"A written report of the survey with the field notes describing the land and the lines and corners so surveyed together with a plat showing the results of such survey shall be filed in the General Land Office within one hundred and twenty (120) days from the filing of the application, unless the time be extended by the Commissioner for good cause shown, which shall be stated in writing and filed as a part of the record of the proceedings, but such extension shall not exceed sixty (60) days. The report shall state the names and the Post-Office addresses of all persons in possession of the land described in the application, and of all persons found by the surveyor to have or claim any interest therein. Any interested party may at his own expense cause any surveying to be done as he deems desirable.

"As soon as the total expense properly charged against the deposit has been determined, the Commissioner shall render a complete statement to applicant, accompanied by payment of the balance, if any, shown to be remaining in such fund.

"Within sixty (60) days after the surveyor has made his report as provided herein, a hearing may be held before the Commissioner on the date fixed in a notice which he shall give to all persons thought to be interested parties and to all persons shown by the record of the proceeding to be interested parties, including the Attorney General, to determine whether there is a vacancy. Such notice shall be deposited in the Post Office at Austin, at least ten (10) days prior to the date fixed for such hearing. At the hearing, the State and each interested party, whether or not he received notice, shall have a right to be heard.

"(d) If the Commissioner should decide that the area so alleged to be a vacancy is not vacant, then the Commissioner shall so endorse said application and file it with his finding, and shall promptly notify the applicant of his finding by registered mail, and shall file all reports and papers received in connection with said application, and then shall take no further steps with respect to same unless the existence of the alleged vacant area shall have been determined by a Court of competent jurisdiction. Thereupon, the applicant's application, and all preference rights acquired thereby, to buy, or lease, such alleged vacancy shall become null and void, unless within a period of ninety (90) days after the mailing of such notice the applicant shall file suit in the District Court of the county wherein any part of such land is located, for the purpose of litigating the question of the existence of a vacant unsurveyed area.

"(e) If it shall appear to the Commissioner that the alleged vacancy is not in conflict with land previously titled, awarded, or sold by the State, the Commissioner shall give prompt notice of such finding to the applicant and to all those who have been previously identified as interested parties, and thereafter, subject to the further provisions hereof, such applicant shall have a right for one hundred and twenty (120) days to purchase or lease such portion of said land as is vacant at the price fixed by the School Land Board as hereinafter provided, with the royalty

reservation provided hereinabove in subsection (b); provided that no such award shall be made by the Commissioner except after a hearing, and provided further that no presumption shall obtain in any suit involving the existence of a vacancy, as a result of the action of the Commissioner in this respect.

"(f) Any good faith claimant who ascertains that a vacancy exists or that a claimed vacancy may exist, or who has been notified by the Commissioner that a vacancy has been found to exist upon lands claimed by him shall, at any time, until ninety (90) days after a decision of the Commissioner declaring the existence of a vacancy, have a preference right to purchase or lease same by applying in writing to the Commissioner for such purchase or lease, and by furnishing such proof as may be satisfactory to the Commissioner that he is a good faith claimant. Such good faith claimant shall then be entitled to purchase or lease such portion of said land as is vacant, at the price fixed by the School Land Board, subject to the royalty reservations herein provided, effective as of the date such application is filed.

"Where there is no valid and subsisting prior filing by an applicant covering the alleged vacant area upon the date of the filing of a good faith claimant's application to purchase or lease, such application shall be accompanied by a filing fee of One Dollar (\$1), by a written report of a surveyor licensed by the State, or the County Surveyor of the county in which the land or a part thereof is situated, with field notes describing the land and the lines and corners so surveyed, together with a plat showing the results of such survey, and by such proof as may be satisfactory to the Commissioner that he is a good faith claimant. Such good faith claimant may, however, if he so desires, file his application to purchase or lease, and within one hundred and twenty (120) days from the date of filing with the Commissioner, cause a survey of the alleged vacancy to be made, and file the written report, field notes, and plat in the General Land Office, together with the proof that he is a good faith claimant. If it shall appear to the Commissioner that the alleged vacancy is not in conflict with the land previously titled, awarded or sold by the State, the Commissioner shall grant such application under the provisions of this Act; provided, however, that prior to granting the application, the Commissioner may have a hearing at which any interested persons may appear.

"The application by a good faith claimant shall not be used or considered, in any way, as an admission on his part that a vacancy exists.

"Any good faith claimant shall also have a preference right until ninety (90) days after final judicial determination of the existence of a vacancy to purchase the land alleged or adjudicated to be vacant; provided, however, that if such good faith claimant shall not have exercised his preference right until after ninety (90) days after the decision of the Commissioner determining the existence of the vacancy, then the sale made to the good faith claimant shall be subject to a reservation in favor

of the State of a free one-eighth ( $1/8$ ) royalty of all oil, gas, sulphur and other minerals, and subject to any lease made or to be made by the State to applicant, if any, of not more than thirteen-sixteenths ( $13/16$ ) mineral interest as in this Act provided. If the Commissioner has theretofore executed a mineral lease on a larger portion of the minerals under said land, then such lease shall be amended to cover only thirteen-sixteenths ( $13/16$ ) of the minerals so as to conform with the preference rights hereby given to good faith claimants.

"Any good faith claimant of a vacant or unsurveyed tract of land shall have ninety (90) days after the sale or lease by the Commissioner of said tract to institute suit to set aside the sale or lease of said tract of land. If said suit be not instituted by the good faith claimant within said ninety-day period, he shall lose all preference rights to buy or lease said land.

"If the Commissioner has failed to determine whether or not there is a good faith claimant, or if his decision is questioned by applicant or one asserting to be a good faith claimant, then such issue shall be determined in any suit brought under this Act to determine the existence of the alleged vacancy.

"Provided the good faith claimant shall pay back to the applicant the amount of expenses incurred in determining the existence of the vacancy, as provided for in Section 1, Subsection (c), except the filing fees, within ninety (90) days after the Commissioner has declared the vacancy to exist, or he shall lose all preference rights to lease or buy said land."

"(g) The purchase by any good faith claimant under such preferential right shall inure distributively to the benefit of all owners holding title under him or an interest in the title under which he claims to be a good faith claimant, provided that such co-owners or lessees shall accept the provisions hereinafter set out and contribute their proportionate part of the royalty reserved to the State and the royalty awarded to the applicant. Such reservations shall be deducted distributively and proportionately from the mineral interest of each owner, including mineral leases, if the area should be under mineral lease. As a condition to the benefits conferred by this law, it is expressly provided that such claimants receiving patents or awards, or for whose benefit such patents or awards are received, shall recognize the proportionate interests of other owners benefiting by the award of preference rights hereby. The consideration for such purchase shall be determined by the Commissioner without considering the potential mineral value or any improvements thereon, but shall not be less than One Dollar (\$1) per acre, and the State shall retain its right to recover from the party or parties liable therefor the market value, when produced, of all oil, gas, sulphur, and other minerals that may have been produced from such area prior to the effective date of the said patent or award, but against such liability there shall be allowed as an offset to the operator the actual cost of developing and producing the same. Provided that no mineral lease executed by the good

faith claimant previous to the filing of the vacancy claim shall give the lessee any interest in, or to, any vacancy.

"No title to either land or mineral interest in land acquired from the State under preference right shall ever be held to pass as an after-acquired title by reason of any covenant of general warranty, description, or other provision, contained in any conveyance executed prior to the date of award under such preference.

"(h) Where there is a valid, subsisting prior filing by an applicant upon the date of the filing of a good faith claimant's application to purchase under preferential right, and where the good faith claimant shall have exercised his preference right to purchase within ninety (90) days after a decision of the Commissioner under the provisions of this Act, then in such patent as shall be issued to good faith claimant, there shall be added to the free royalty interest reserved to the State and deducted proportionately from good faith claimant's award, as provided in paragraph (g), a free royalty of one-sixteenth of all oil, gas, sulphur, and other minerals which may be produced from such land, which royalty shall be awarded by the State to the applicant. But, if the good faith claimant shall not have exercised his preferential right to purchase within ninety (90) days after a decision of Commissioner under the provisions of this Act, then the applicant shall be awarded an oil, gas and mineral lease on not more than seven-eighths of the minerals for not less than One Dollar (\$1) per acre, and for a five-year primary term, subject to such other consideration and terms as may be fixed by School Land Board, and subject to the preference right of a good faith claimant until ninety (90) days after final judicial determination under subsection (f) hereof. Should there be no good faith claimant, or should no good faith claimant exercise his preferential right within the time allowed, then the applicant shall be entitled to buy or lease accordingly, as he may have applied, the vacancy applied for by him and found to exist, for a consideration to be fixed by the School Land Board as hereinafter provided, but without consideration of potential mineral value.

"(i) Any application made under prior laws to purchase or lease unsurveyed school land which is on file in the office of the Commissioner or with any county surveyor and which has not been granted upon the effective date of this Act, shall become null, void, and of no further effect unless there is then pending a suit, or suits, involving the question of whether the land so affected or a part thereof is vacant, or unless the Commissioner shall within nine (9) months after the effective date hereof grant said application, or unless the applicant shall within sixty (60) days after the end of such nine-months period, file an action in the District Court, for the purpose of litigating the question of the existence of a vacant unsurveyed area.

"(j) Any person, firm, or corporation aggrieved by any action taken by the Commissioner under the provisions of this Act,



or with reference to any application to purchase or lease vacancies, may institute suit in the District Court of the county where any part of the land is situated, but not elsewhere, and there try the issues of boundary, title, and ownership of any alleged vacancy involved, as well as the issues of the preference rights of such person, firm, or corporation, as herein provided. The plaintiff in such suit shall within thirty (30) days after the filing thereof cause a certified copy of the original petition therein to be served by any sheriff or constable of Travis County upon the Attorney General of Texas and the Commissioner, and cause such officer's return showing said service to be filed with the papers in said cause. Whether the Attorney General answers or intervenes in said cause or institutes suit in the first instance, following the filing of such application, the venue of all such suits shall be in the county where such land, or any part thereof, is located. When such litigation shall have been prosecuted to a final judgment, said judgment shall be binding upon the State of Texas. It shall be mandatory for the Attorney General to intervene in behalf of the State in such cases."

SEC. 2. That Section 8 of House Bill 358, being Chapter 271 of the Acts of the Forty-second Legislature, Regular Session, Page 452 (1931) be, and the same is, hereby amended so that hereafter the same shall read as follows:

"Lands Subject to Lease: All islands, salt water lakes, bays, inlets, marshes, and reefs owned by the State within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas, and all unsold public free school land, both surveyed and unsurveyed, shall be subject to lease by the Commissioner to any person, firm, or corporation for the production of minerals, except gold, silver, platinum, cinnabar, and other metals, that may be therein or thereunder, in accordance with the provisions of Chapter 271, Acts of the Forty-second Legislature, as amended, and Subdivision 2, Chapter 4, Title 86, Revised Civil Statutes of Texas of 1925, relating to leasing public areas, in so far as same is not in conflict herewith. Provided, however, that nothing in this Act shall be construed as removing from or interfering with the rights and powers of the surface owner of land sold or to be hereafter sold by the State, with a mineral reservation, to act as agent of the State in making and executing mineral leases covering and affecting such lands, but the authority of such surface owner shall remain the same as provided by law, and is in no wise abridged, modified or removed by this Act."

SEC. 3. Nothing in this Act shall affect or apply to filings or applications which are involved in pending litigation upon the effective date hereof, nor to the title to the land involved in any suit to which the State is now a party, nor to any pending suit. Nothing in this Act shall apply to any application on file at the effective date of this Act, and such applications may be prosecuted under the law in effect at the date such applications

were originally filed, except that suit thereon shall be filed (if not already filed) within the time limits fixed in subsection (i) hereof.

SEC. 4. In all cases where the area of a tract of land titled or patented exceeds the quantity called for in the title or patent, and where under the existing law the title to all or any part thereof shall or may be affected by the existence of such excess, then any person owning such survey or having an interest therein may pay for such excess acreage at such price as the empowered authority may fix. Any person owning any interest in a titled or patented survey in which excess acreage exists who desires to pay for such excess acreage, shall file with the Land Commissioner a request for an appraisal of the land with corrected field notes in the form now provided by law, together with a statement of the facts pertaining to his right to purchase, which statement shall be sworn to, and such other evidence of his right to purchase as the Commissioner may require. Should it appear that such excess actually exists and that the applicant is entitled to the benefits of the law, then the Commissioner shall execute a deed of acquittance covering such land in the name of the original patentee or his assignees with such reservation of minerals or with no mineral reservation, accordingly as may have been the case when the survey was titled or patented. Such transfer shall inure distributively to the benefit of the true and lawful owners of the survey in proportion to their holdings.

SEC. 4-a. No mineral lease executed by an owner or owners of land or minerals under what is commonly known as the Relinquishment Act shall be effective until a certified copy of such lease is filed in the Land Office. No such lease executed after the effective date hereof shall be binding upon the State unless it recites the actual and true consideration paid or promised therefor.

SEC. 5. 1. All lands set apart for the permanent free school fund and the several asylum funds by the Constitution and the laws of this State and the mineral estate in river beds and channels, and the mineral estate in all areas within tidewater limits including islands, lakes, bays, and the bed of the sea, belonging to the State of Texas, are subject to control and disposition in accordance with the provisions of this Section and other pertinent provisions of this Act and other laws not in conflict herewith; provided, however, that the provisions of this Act shall not apply to those lands awarded to the State of Texas by decree of the Supreme Court of the United States on March 17, 1930, in Cause entitled: The State of Oklahoma vs. The State of Texas, the United States of America, Intervenor, but said land shall be sold and disposed of in accordance with the provisions of Chapter 185, Acts of the Regular Session of the Forty-second Legislature.

2. The mineral estate in river beds and channels and in all areas within tidewater limits, including islands, lakes, bays, and the bed of the sea, belonging to the State of Texas, are hereby set apart and dedicated to the permanent school fund.

3. There is hereby created a board to be known as the School Land Board, and to be composed of three (3) members, namely: the Commissioner of the General Land Office, who shall be chairman, the Governor and the Attorney General.

4. The duties of the School Land Board shall be to set all dates for the leasing and the sale of surveyed lands, and to determine the prices at which any land, whether surveyed or unsurveyed, shall be leased or sold, and to perform any other duties that may be imposed upon them by law. All such lands shall be sold and leased subject to the terms and conditions provided by law, except that no land shall be appraised at a less price than Two Dollars (\$2) per acre; provided, however, that lands lying and being situated west of the Pecos River may be appraised at a price not less than One Dollar (\$1) per acre.

5. The School Land Board shall meet on the first and third Tuesdays of each month in the General Land Office, where its sessions shall be held and continued until its docket is cleared, subject to recesses at the discretion of the Board. The Board shall select a secretary who shall be nominated by the Commissioner of the General Land Office and approved by a majority of the Board. The Commissioner of the General Land Office is authorized to employ other employees which may be necessary for the discharge of the duties of the Board, and particularly is authorized to employ a geologist and mineralogist, who shall keep informed with reference to the minerals on public school lands and all activities under pending applications and previous leases and sales, and shall report to the Board all information obtained with reference thereto. The employees of the Board shall be deemed to be employees of the General Land Office, and all civil and criminal laws regulating the conduct and relations of the employees of the General Land Office shall apply in all things to the employees of the Board.

6. The School Land Board shall keep a record of its proceedings to be called its minutes which shall include a docket on which the secretary shall enter all matters to be considered by the Board, the minutes and docket to be subject to inspection by any citizen of Texas desiring to make an examination thereof on payment of such fees as may be prescribed by law for the examination of other Land Office records, the examination to be in all cases in the presence of the secretary of the Board or some clerk designated for that purpose as prescribed by law. All records and proceedings of the Board shall be records and archives of the General Land Office.

7. The School Land Board, as soon after the passage of this Act as may be practicable, shall adopt rules of procedure and regulation for the sale and leasing of areas included herein not

inconsistent with this Act and other laws on the subject for the sale and lease of school and asylum lands and the lease of the mineral estate in river beds and channels and islands, lakes and bays within tidewater limits and the bed of the sea, belonging to the State of Texas.

8. The description of public free school land offered for sale or lease shall be in accord with such descriptions as may be found in the School Land Registry of the General Land Office and shall be entered on the docket; and when applications to purchase either the land or the lease, as the case may be, are filed, the name of the applicant and the amount of his bid shall also be entered on the docket. The minutes shall show the fact of acceptance of a bid or the rejection of a bid and the approval of the minutes will constitute the approval of the act of acceptance or the act of rejection, as the case may be.

9. It shall be the duty of the Commissioner of the General Land Office to furnish the Board from time to time a list of all lands subject to the provisions of this Section.

10. All awards or leases shall be issued by the Commissioner of the General Land Office in accordance with the minutes as approved by the School Land Board.

11. It shall be the duty of the School Land Board to advise the Commissioner in all matters submitted to it for such purpose.

12. The Board shall insert, in at least four (4) daily newspapers in at least three (3) issues of each, thirty (30) days in advance of a sale date, which shall be the first Tuesday in any month, an advertisement to the effect that leases or land will be offered for sale on a certain date and that lists describing the land may be had at the General Land Office.

13. The School Land Board shall have the right to reject any and all bids, but unless the Board elects to reject any and all bids, it shall be required to accept the best bid submitted.

14. (a) All functions now vested by law in the Board of Mineral Development created by Chapter 40, Acts of the Second Called Session of the Forty-second Legislature, are hereby transferred to and vested in the School Land Board, subject to the same powers, rights, duties, restrictions and limitations imposed by law upon the Board of Mineral Development. The Board of Mineral Development is hereby abolished.

(b) Upon the taking effect of this Act, all books, papers, records, property and pending business theretofore made, used, acquired or conducted by the Board of Mineral Development in the exercise of its functions hereby transferred, shall be transferred to and vested in the School Land Board.

(c) All officers and employees of the Board of Mineral Development may be transferred to the School Land Board, and shall perform the duties of the Board as directed by the Commissioner of the General Land Office, subject to the conditions hereinabove set forth. The Commissioner of the General Land

Office shall have the power to eliminate unnecessary positions, to transfer officers and employees between positions, and to change the duties, titles and compensation of the existing offices and positions necessary to effect an efficient administration of the Board.

(d) The balances of the appropriations heretofore made to the credit of the General Land Office for the use of the Board of Mineral Development are hereby made available for expenditure by the Commissioner of the General Land Office in the exercise of such functions hereby transferred to and vested in the School Land Board.

15. The sum of Ten thousand Dollars (\$10,000), or so much thereof as may be necessary, is hereby appropriated annually out of any funds in the State Treasury, not otherwise appropriated, to pay the salaries and expenses of all persons employed or appointed by the Board as herein provided, and all other expenses necessary for the proper discharge of the duties of the Board. The compensation of all persons employed by the Board shall be in line with salaries paid other State officials and employees holding similar positions and doing similar work.

SEC. 6. All laws or parts of laws in conflict herewith are hereby repealed.

SEC. 7. If any section, subsection, or portion of this Act shall be held unconstitutional or invalid, then it is expressly here shown as the intention of the Legislature that each and every part of this Act, and every subsection hereof, would have been enacted without the enactment of all other parts, or subsections hereof, so that the invalidation of any portion of this Act shall not affect the validity of the remaining portion hereof.

SEC. 8. The fact that numerous persons commonly known as "Vacancy Hunters" are encouraged by existing Statutes to seek to destroy or discredit old recognized lines and landmarks and to shift surveys into other positions in order to create alleged vacancies from which they can profit, but which seldom benefit the free school fund, and that many alleged but unproven vacancies have been recently granted and sold or leased in disregard of the rights of taxpaying citizens who have long believed themselves the true owners of such land, and that many suits have been filed and are being filed to recover such areas from the people who have in some cases been occupying the same for generations, and that many suits are now on file in which the arbitrary action of the Land Commissioner in granting vacancies will throw upon the landowners the almost impossible task in many cases of retracing the lost "footsteps of the original surveyor" made fifty to one hundred years ago in order to overcome the pronouncement of the Land Commissioner that the land is vacant, and that normal development in such areas is retarded to the detriment of landowners and of the schools which depend upon tax revenues for their operation, and that good faith owners and claimants of lands are given no sufficient preference rights

thereon, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be, and the same is, hereby suspended, and this Act shall take effect and shall be in force from and after the date of its enactment, and it is so enacted.

[NOTE.—H. B. No. 9 was passed by the House, April 11, 1939, by a vote of 86 yeas, 41 nays; by the Senate, with amendments, May 8, 1939, by a vote of 25 yeas, 4 nays; the House concurred in Senate amendments, May 9, 1939, by a vote of 75 yeas, 59 nays.]

Approved June 19, 1939.

Effective 90 days after date of adjournment.

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#### CHAPTER 4.

### SALE OF PUBLIC LANDS ALONG OKLAHOMA-TEXAS BOUNDARY.

S. B. No. 373.]

An Act providing for the sale of public lands along the eastern boundary of the State of Texas and the western boundary of the State of Oklahoma: repealing all laws and parts of laws in conflict herewith; and declaring an emergency.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. That from and after the effective date of this Act all public lands in this State situate along the western boundary of the State of Oklahoma and the eastern boundary of the State of Texas and along the 100th degree of west longitude, found to be in the State of Texas by final decree of the Supreme Court of the United States entered March 17, 1930, in the case of the State of Oklahoma vs. the State of Texas, the United States of America, intervenor, theretofore claimed by Oklahoma but now located in Lipscomb, Hemphill, Wheeler, Collingsworth and Childress Counties, are to be offered for sale in accordance with the provisions of Article 5330A, Revised Civil Statutes of Texas (Acts 1931, Forty-second Legislature, Page 311, Chapter 185).

SEC. 2. All laws and parts of laws in conflict herewith are hereby expressly repealed.

SEC. 3. The fact that the Legislature has suspended from sale all public lands for a period of ninety (90) days from the date of adjournment of the present session and such act deprives the occupant of the lands described in this Act of the right to purchase such lands from the State as provided in Article 5330A, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby sus-